

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 491

Introduced by Assembly Member Torres

February 19, 2013

An act to amend Sections 207~~and 212~~, 212, 5140, 5151, 7140, 7151, 9140, and 9151 of the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL’S DIGEST

AB 491, as amended, Torres. Corporations: bylaws: *emergency powers*.

~~The General Corporation Law~~ Existing law authorizes and regulates the formation and operation of a corporation, *nonprofit public benefit corporation, nonprofit mutual benefit corporation, or nonprofit religious corporation*, including, but not limited to, the adoption and contents of corporate bylaws.

This bill would authorize a corporation, *nonprofit public benefit corporation, nonprofit mutual benefit corporation, or nonprofit religious corporation* to take actions during an emergency, as defined, to conduct ~~the corporation’s~~ *these corporations’* ordinary business operations and affairs, as specified, and provide that any action taken in good faith during an emergency under this authorization would bind ~~the corporation~~ *these corporations* and not be a basis to impose liability on a corporate director, officer, employee, or agent. This bill would also authorize a corporation, *nonprofit public benefit corporation, nonprofit mutual benefit corporation, or nonprofit religious corporation* to adopt bylaws to further direct the operations of ~~the corporation~~ *these corporations* during an emergency, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 207 of the Corporations Code is amended
2 to read:
- 3 207. Subject to any limitations contained in the articles and to
4 compliance with other provisions of this division and any other
5 applicable laws, a corporation shall have all of the powers of a
6 natural person in carrying out its business activities, including,
7 without limitation, the power to:
- 8 (a) Adopt, use and at will alter a corporate seal, but failure to
9 affix a seal does not affect the validity of any instrument.
- 10 (b) Adopt, amend and repeal bylaws.
- 11 (c) Qualify to do business in any other state, territory,
12 dependency or foreign country.
- 13 (d) Subject to the provisions of Section 510, issue, purchase,
14 redeem, receive, take or otherwise acquire, own, hold, sell, lend,
15 exchange, transfer or otherwise dispose of, pledge, use and
16 otherwise deal in and with its own shares, bonds, debentures and
17 other securities.
- 18 (e) Make donations, regardless of specific corporate benefit, for
19 the public welfare or for community fund, hospital, charitable,
20 educational, scientific, civic or similar purposes.
- 21 (f) Pay pensions, and establish and carry out pension,
22 profit-sharing, share bonus, share purchase, share option, savings,
23 thrift and other retirement, incentive and benefit plans, trusts and
24 provisions for any or all of the directors, officers and employees
25 of the corporation or any of its subsidiary or affiliated corporations,
26 and to indemnify and purchase and maintain insurance on behalf
27 of any fiduciary of such plans, trusts or provisions.
- 28 (g) Subject to the provisions of Section 315, assume obligations,
29 enter into contracts, including contracts of guaranty or suretyship,
30 incur liabilities, borrow and lend money and otherwise use its
31 credit, and secure any of its obligations, contracts or liabilities by
32 mortgage, pledge or other encumbrance of all or any part of its
33 property, franchises and income.
- 34 (h) Participate with others in any partnership, joint venture or
35 other association, transaction or arrangement of any kind, whether

1 or not such participation involves sharing or delegation of control
2 with or to others.

3 (i) (1) In advance ~~of~~, *of* or during an emergency, take any or
4 all of the following actions necessary to conduct the corporation's
5 ordinary business operations and affairs during an emergency,
6 unless emergency bylaws provide otherwise pursuant to subdivision
7 (c) of Section 212:

8 (A) Modify lines of succession to accommodate the incapacity
9 of any director, officer, employee, or agent resulting from the
10 emergency.

11 (B) Relocate the principal office, designate alternative principal
12 offices or regional offices, or authorize the officers to do so.

13 (C) Give notice to a director or directors in any practicable
14 manner under the circumstances, including, but not limited to, by
15 publication and radio, when notice of a meeting of the board cannot
16 be given to that director or directors in the manner prescribed by
17 the bylaws or Section 307.

18 (D) Deem that one or more officers of the corporation present
19 at a board meeting is a director, in order of rank and within the
20 same rank in order of seniority, as necessary to achieve a quorum
21 for that meeting.

22 (2) During an emergency, the board may not take any action
23 that requires the vote of the shareholders or is not in the
24 corporation's ordinary course of business, unless the required vote
25 of the shareholders was obtained prior to the emergency.

26 (3) Any actions taken in good faith during an emergency under
27 this subdivision binds the corporation and may not be used to
28 impose liability on a corporate director, officer, employee, or agent.

29 (4) For purposes of this subdivision, "emergency" means any
30 of the following events or circumstances as a result of which a
31 quorum of the corporation's board of directors cannot be readily
32 convened for action:

33 (A) A natural catastrophe, including, but not limited to, a
34 hurricane, tornado, storm, high water, wind-driven water, tidal
35 wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
36 snowstorm, or drought, or, regardless of cause, any fire, flood, or
37 explosion.

38 (B) An attack on this state or nation by an enemy of the United
39 States of America, or upon receipt by this state of a warning from

1 the federal government indicating that an enemy attack is probable
2 or imminent.

3 (C) An act of terrorism or other manmade disaster that results
4 in extraordinary levels of casualties or damage or disruption
5 severely affecting the infrastructure, environment, economy,
6 government functions, or population, including, but not limited
7 to, mass evacuations.

8 (D) A state of emergency proclaimed by the Governor.

9 SEC. 2. Section 212 of the Corporations Code is amended to
10 read:

11 212. (a) The bylaws shall set forth (unless such provision is
12 contained in the articles, in which case it may only be changed by
13 an amendment of the articles) the number of directors of the
14 corporation; or that the number of directors shall be not less than
15 a stated minimum nor more than a stated maximum (which in no
16 case shall be greater than two times the stated minimum minus
17 one), with the exact number of directors to be fixed, within the
18 limits specified, by approval of the board or the shareholders
19 (Section 153) in the manner provided in the bylaws, subject to
20 paragraph (5) of subdivision (a) of Section 204. The number or
21 minimum number of directors shall not be less than three; provided,
22 however, that (1) before shares are issued, the number may be one,
23 (2) before shares are issued, the number may be two, (3) so long
24 as the corporation has only one shareholder, the number may be
25 one, (4) so long as the corporation has only one shareholder, the
26 number may be two, and (5) so long as the corporation has only
27 two shareholders, the number may be two. After the issuance of
28 shares, a bylaw specifying or changing a fixed number of directors
29 or the maximum or minimum number or changing from a fixed to
30 a variable board or vice versa may only be adopted by approval
31 of the outstanding shares (Section 152); provided, however, that
32 a bylaw or amendment of the articles reducing the fixed number
33 or the minimum number of directors to a number less than five
34 cannot be adopted if the votes cast against its adoption at a meeting
35 or the shares not consenting in the case of action by written consent
36 are equal to more than $16\frac{2}{3}$ percent of the outstanding shares
37 entitled to vote.

38 (b) The bylaws may contain any provision, not in conflict with
39 law or the articles for the management of the business and for the

1 conduct of the affairs of the corporation, including but not limited
2 to:

3 (1) Any provision referred to in subdivision (b), (c) or (d) of
4 Section 204.

5 (2) The time, place and manner of calling, conducting and giving
6 notice of shareholders', directors' and committee meetings.

7 (3) The manner of execution, revocation and use of proxies.

8 (4) The qualifications, duties and compensation of directors;
9 the time of their annual election; and the requirements of a quorum
10 for directors' and committee meetings.

11 (5) The appointment and authority of committees of the board.

12 (6) The appointment, duties, compensation and tenure of
13 officers.

14 (7) The mode of determination of holders of record of its shares.

15 (8) The making of annual reports and financial statements to
16 the shareholders.

17 (c) (1) The bylaws may contain any provision, not in conflict
18 with the articles, to manage and conduct the ordinary business
19 affairs of the corporation effective only in an emergency as defined
20 in Section 207, including, but not limited to, procedures for calling
21 a board meeting, quorum requirements for a board meeting, and
22 designation of additional or substitute directors.

23 (2) During an emergency, the board may not take any action
24 that requires the vote of the shareholders or otherwise is not in the
25 corporation's ordinary course of business, unless the required vote
26 of the shareholders was obtained prior to the emergency.

27 (3) All provisions of the regular bylaws consistent with the
28 emergency bylaws shall remain effective during the emergency,
29 and the emergency bylaws shall not be effective after the
30 emergency ends.

31 (4) Corporate action taken in good faith in accordance with the
32 emergency bylaws binds the corporation, and may not be used to
33 impose liability on a corporate director, officer, employee, or agent.

34 *SEC. 3. Section 5140 of the Corporations Code is amended to*
35 *read:*

36 5140. Subject to any limitations contained in the articles or
37 bylaws and to compliance with other provisions of this division
38 and any other applicable laws, a corporation, in carrying out its
39 activities, shall have all of the powers of a natural person,
40 including, without limitation, the power to:

- 1 (a) Adopt, use, and at will alter a corporate seal, but failure to
- 2 affix a seal does not affect the validity of any instrument.
- 3 (b) Adopt, amend, and repeal bylaws.
- 4 (c) Qualify to conduct its activities in any other state, territory,
- 5 dependency or foreign country.
- 6 (d) Issue, purchase, redeem, receive, take or otherwise acquire,
- 7 own, sell, lend, exchange, transfer or otherwise dispose of, pledge,
- 8 use and otherwise deal in and with its own bonds, debentures,
- 9 notes and debt securities.
- 10 (e) Issue memberships.
- 11 (f) Pay pensions, and establish and carry out pension, deferred
- 12 compensation, saving, thrift and other retirement, incentive and
- 13 benefit plans, trusts and provisions for any or all of its directors,
- 14 officers, employees, and persons providing services to it or any of
- 15 its subsidiary or related or associated corporations, and to
- 16 indemnify and purchase and maintain insurance on behalf of any
- 17 fiduciary of such plans, trusts, or provisions.
- 18 (g) Levy dues, assessments, and admission fees.
- 19 (h) Make donations for the public welfare or for community
- 20 funds, hospital, charitable, educational, scientific, civic, religious
- 21 or similar purposes.
- 22 (i) Assume obligations, enter into contracts, including contracts
- 23 of guarantee or suretyship, incur liabilities, borrow or lend money
- 24 or otherwise use its credit, and secure any of its obligations,
- 25 contracts or liabilities by mortgage, pledge or other encumbrance
- 26 of all or any part of its property and income.
- 27 (j) Participate with others in any partnership, joint venture or
- 28 other association, transaction or arrangement of any kind whether
- 29 or not such participation involves sharing or delegation of control
- 30 with or to others.
- 31 (k) Act as trustee under any trust incidental to the principal
- 32 objects of the corporation, and receive, hold, administer, exchange,
- 33 and expend funds and property subject to such trust.
- 34 (l) Carry on a business at a profit and apply any profit that results
- 35 from the business activity to any activity in which it may lawfully
- 36 engage.
- 37 (m) Pay the reasonable value of services rendered in this state
- 38 to the corporation before January 1, 1975, and not previously paid,
- 39 by any person who performed such services on a full-time basis
- 40 under the direction of a religious organization in connection with

the religious tenets of the organization. Such person shall have relied solely on the religious organization for his or her financial support for a minimum of five years. A payment shall not be made if such person or religious organization waives the payment or receipt of compensation for such services in writing. Payment may be made to such religious organization to reimburse it for maintenance of any person who rendered such services and to assist it in providing future support and maintenance; however, payment shall not be made from any funds or assets acquired with funds donated by or traceable to gifts made to the corporation by any person, organization or governmental agency other than the members, immediate families of members and affiliated religious organizations of the religious organization under whose direction the services were performed.

(n) (1) In advance of or during an emergency, take any or all of the following actions necessary to conduct the corporation's ordinary business operations and affairs during an emergency, unless emergency bylaws provide otherwise pursuant to subdivision (g) of Section 5151:

(A) Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent resulting from the emergency.

(B) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(C) Give notice to a director or directors in any practicable manner under the circumstances, including, but not limited to, by publication and radio, when notice of a meeting of the board cannot be given to that director or directors in the manner prescribed by the bylaws or Section 5211.

(D) Deem that one or more officers of the corporation present at a board meeting is a director, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum for that meeting.

(2) During an emergency, the board may not take any action that requires the vote of the shareholders or is not in the corporation's ordinary course of business, unless the required vote of the shareholders was obtained prior to the emergency.

(3) Any actions taken in good faith during an emergency under this subdivision binds the corporation and may not be used to

1 *impose liability on a corporate director, officer, employee, or*
2 *agent.*

3 *(4) For purposes of this subdivision, “emergency” means any*
4 *of the following events or circumstances as a result of which a*
5 *quorum of the corporation’s board of directors cannot be readily*
6 *convened for action:*

7 *(A) A natural catastrophe, including, but not limited to, a*
8 *hurricane, tornado, storm, high water, wind-driven water, tidal*
9 *wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,*
10 *snowstorm, or drought, or, regardless of cause, any fire, flood, or*
11 *explosion.*

12 *(B) An attack on this state or nation by an enemy of the United*
13 *States of America, or upon receipt by this state of a warning from*
14 *the federal government indicating that an enemy attack is probable*
15 *or imminent.*

16 *(C) An act of terrorism or other man-made disaster that results*
17 *in extraordinary levels of casualties or damage or disruption*
18 *severely affecting the infrastructure, environment, economy,*
19 *government functions, or population, including, but not limited to,*
20 *mass evacuations.*

21 *(D) A state of emergency proclaimed by the Governor.*

22 *SEC. 4. Section 5151 of the Corporations Code is amended to*
23 *read:*

24 *5151. (a) The bylaws shall set forth (unless that provision is*
25 *contained in the articles, in which case it may only be changed by*
26 *an amendment of the articles) the number of directors of the*
27 *corporation, or the method of determining the number of directors*
28 *of the corporation, or that the number of directors shall be not less*
29 *than a stated minimum nor more than a stated maximum with the*
30 *exact number of directors to be fixed, within the limits specified,*
31 *by approval of the board or the members (Section 5034), in the*
32 *manner provided in the bylaws, subject to subdivision (e). The*
33 *number or minimum number of directors may be one or more.*

34 *(b) Once members have been admitted, a bylaw specifying or*
35 *changing a fixed number of directors or the maximum or minimum*
36 *number or changing from a fixed to a variable board or vice versa*
37 *may only be adopted by approval of the members (Section 5034).*

38 *(c) The bylaws may contain any provision, not in conflict with*
39 *law or the articles, for the management of the activities and for*

1 the conduct of the affairs of the corporation, including but not
2 limited to:

3 (1) Any provision referred to in subdivision (c) of Section 5132.

4 (2) The time, place and manner of calling, conducting and giving
5 notice of members', directors' and committee meetings, or of
6 conducting mail ballots.

7 (3) The qualifications, duties and compensation of directors;
8 the time of their election; and the requirements of a quorum for
9 directors' and committee meetings.

10 (4) The appointment and authority of committees.

11 (5) The appointment, duties, compensation and tenure of
12 officers.

13 (6) The mode of determination of members of record.

14 (7) The making of reports and financial statements to members.

15 (8) Setting, imposing and collecting dues, assessments and
16 admission fees.

17 (d) The bylaws may provide for the manner of admission,
18 withdrawal, suspension, and expulsion of members, consistent
19 with the requirements of Section 5341.

20 (e) The bylaws may require, for any or all corporate actions
21 (except as provided in paragraphs (1) and (2) of subdivision (a) of
22 Section 5222, subdivision (c) of Section 5616, and Section 6610),
23 the vote of a larger proportion of, or all of, the members or the
24 members of any class, unit, or grouping of members, or the vote
25 of a larger proportion of, or all of, the directors, than is otherwise
26 required by this part. Such a provision in the bylaws requiring such
27 greater vote shall not be altered, amended or repealed except by
28 such greater vote, unless otherwise provided in the bylaws.

29 (f) The bylaws may contain a provision limiting the number of
30 members, in total or of any class, which the corporation is
31 authorized to admit.

32 (g) (1) *The bylaws may contain any provision, not in conflict*
33 *with the articles, to manage and conduct the ordinary business*
34 *affairs of the corporation effective only in an emergency as defined*
35 *in Section 5140, including, but not limited to, procedures for*
36 *calling a board meeting, quorum requirements for a board meeting,*
37 *and designation of additional or substitute directors.*

38 (2) *During an emergency, the board may not take any action*
39 *that requires the vote of the shareholders or otherwise is not in*

1 *the corporation's ordinary course of business, unless the required*
2 *vote of the shareholders was obtained prior to the emergency.*

3 *(3) All provisions of the regular bylaws consistent with the*
4 *emergency bylaws shall remain effective during the emergency,*
5 *and the emergency bylaws shall not be effective after the emergency*
6 *ends.*

7 *(4) Corporate action taken in good faith in accordance with the*
8 *emergency bylaws binds the corporation, and may not be used to*
9 *impose liability on a corporate director, officer, employee, or*
10 *agent.*

11 *SEC. 5. Section 7140 of the Corporations Code is amended to*
12 *read:*

13 7140. Subject to any limitations contained in the articles or
14 bylaws and to compliance with other provisions of this division
15 and any other applicable laws, a corporation, in carrying out its
16 activities, shall have all of the powers of a natural person,
17 including, without limitation, the power to:

18 (a) Adopt, use, and at will alter a corporate seal, but failure to
19 affix a seal does not affect the validity of any instrument.

20 (b) Adopt, amend, and repeal bylaws.

21 (c) Qualify to conduct its activities in any other state, territory,
22 dependency or foreign country.

23 (d) Issue, purchase, redeem, receive, take or otherwise acquire,
24 own, sell, lend, exchange, transfer or otherwise dispose of, pledge,
25 use and otherwise deal in and with its own memberships, bonds,
26 debentures, notes and debt securities.

27 (e) Pay pensions, and establish and carry out pension, deferred
28 compensation, saving, thrift and other retirement, incentive and
29 benefit plans, trusts and provisions for any or all of its directors,
30 officers, employees, and persons providing services to it or any of
31 its subsidiary or related or associated corporations, and to
32 indemnify and purchase and maintain insurance on behalf of any
33 fiduciary of such plans, trusts, or provisions.

34 (f) Issue certificates evidencing membership in accordance with
35 the provisions of Section 7313 and issue identity cards.

36 (g) Levy dues, assessments, and admission and transfer fees.

37 (h) Make donations for the public welfare or for community
38 funds, hospital, charitable, educational, scientific, civic, religious
39 or similar purposes.

1 (i) Assume obligations, enter into contracts, including contracts
2 of guarantee or suretyship, incur liabilities, borrow or lend money
3 or otherwise use its credit, and secure any of its obligations,
4 contracts or liabilities by mortgage, pledge or other encumbrance
5 of all or any part of its property and income.

6 (j) Participate with others in any partnership, joint venture or
7 other association, transaction or arrangement of any kind whether
8 or not such participation involves sharing or delegation of control
9 with or to others.

10 (k) Act as trustee under any trust incidental to the principal
11 objects of the corporation, and receive, hold, administer, exchange,
12 and expend funds and property subject to such trust.

13 (l) Carry on a business at a profit and apply any profit that results
14 from the business activity to any activity in which it may lawfully
15 engage.

16 (m) *(1) In advance of, or during an emergency, take any or all*
17 *of the following actions necessary to conduct the corporation's*
18 *ordinary business operations and affairs during an emergency,*
19 *unless emergency bylaws provide otherwise pursuant to subdivision*
20 *(g) of Section 7151:*

21 *(A) Modify lines of succession to accommodate the incapacity*
22 *of any director, officer, employee, or agent resulting from the*
23 *emergency.*

24 *(B) Relocate the principal office, designate alternative principal*
25 *offices or regional offices, or authorize the officers to do so.*

26 *(C) Give notice to a director or directors in any practicable*
27 *manner under the circumstances, including, but not limited to, by*
28 *publication and radio, when notice of a meeting of the board*
29 *cannot be given to that director or directors in the manner*
30 *prescribed by the bylaws or Section 7211.*

31 *(D) Deem that one or more officers of the corporation present*
32 *at a board meeting is a director, in order of rank and within the*
33 *same rank in order of seniority, as necessary to achieve a quorum*
34 *for that meeting.*

35 *(2) During an emergency, the board may not take any action*
36 *that requires the vote of the shareholders or is not in the*
37 *corporation's ordinary course of business, unless the required*
38 *vote of the shareholders was obtained prior to the emergency.*

39 *(3) Any actions taken in good faith during an emergency under*
40 *this subdivision binds the corporation and may not be used to*

1 *impose liability on a corporate director, officer, employee, or*
2 *agent.*

3 *(4) For purposes of this subdivision, “emergency” means any*
4 *of the following events or circumstances as a result of which a*
5 *quorum of the corporation’s board of directors cannot be readily*
6 *convened for action:*

7 *(A) A natural catastrophe, including, but not limited to, a*
8 *hurricane, tornado, storm, high water, wind-driven water, tidal*
9 *wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,*
10 *snowstorm, or drought, or, regardless of cause, any fire, flood, or*
11 *explosion.*

12 *(B) An attack on this state or nation by an enemy of the United*
13 *States of America, or upon receipt by this state of a warning from*
14 *the federal government indicating that an enemy attack is probable*
15 *or imminent.*

16 *(C) An act of terrorism or other man-made disaster that results*
17 *in extraordinary levels of casualties or damage or disruption*
18 *severely affecting the infrastructure, environment, economy,*
19 *government functions, or population, including, but not limited to,*
20 *mass evacuations.*

21 *(D) A state of emergency proclaimed by the Governor.*

22 *SEC. 6. Section 7151 of the Corporations Code is amended to*
23 *read:*

24 *7151. (a) The bylaws shall set forth (unless such provision is*
25 *contained in the articles, in which case it may only be changed by*
26 *an amendment of the articles) the number of directors of the*
27 *corporation, or the method of determining the number of directors*
28 *of the corporation, or that the number of directors shall be not less*
29 *than a stated minimum nor more than a stated maximum with the*
30 *exact number of directors to be fixed, within the limits specified,*
31 *by approval of the board or the members (Section 5034), in the*
32 *manner provided in the bylaws, subject to subdivision (e). The*
33 *number or minimum number of directors may be one or more.*

34 *(b) Once members have been admitted, a bylaw specifying or*
35 *changing a fixed number of directors or the maximum or minimum*
36 *number or changing from a fixed to a variable board or vice versa*
37 *may only be adopted by approval of the members (Section 5034).*

38 *(c) The bylaws may contain any provision, not in conflict with*
39 *law or the articles, for the management of the activities and for*

1 the conduct of the affairs of the corporation, including but not
2 limited to:

3 (1) Any provision referred to in subdivision (c) of Section 7132.

4 (2) The time, place and manner of calling, conducting and giving
5 notice of members', directors' and committee meetings, or of
6 conducting mail ballots.

7 (3) The qualifications, duties and compensation of directors;
8 the time of their election; and the requirements of a quorum for
9 directors' and committee meetings.

10 (4) The appointment of committees, composed of directors or
11 nondirectors or both, by the board or any officer and the authority
12 of any such committees.

13 (5) The appointment, duties, compensation and tenure of
14 officers.

15 (6) The mode of determination of members of record.

16 (7) The making of reports and financial statements to members.

17 (8) Setting, imposing and collecting dues, assessments, and
18 admission and transfer fees.

19 (d) The bylaws may provide for the manner of admission,
20 withdrawal, suspension, and expulsion of members, consistent
21 with the requirements of Section 7341.

22 (e) The bylaws may require, for any or all corporate actions
23 (except as provided in paragraphs (1) and (2) of subdivision (a) of
24 Section 7222, subdivision (c) of Section 7615, and Section 8610)
25 the vote of a larger proportion of, or all of, the members or the
26 members of any class, unit, or grouping of members or the vote
27 of a larger proportion of, or all of, the directors, than is otherwise
28 required by this part. Such a provision in the bylaws requiring such
29 greater vote shall not be altered, amended or repealed except by
30 such greater vote, unless otherwise provided in the bylaws.

31 (f) The bylaws may contain a provision limiting the number of
32 members, in total or of any class, which the corporation is
33 authorized to admit.

34 (g) (1) *The bylaws may contain any provision, not in conflict*
35 *with the articles, to manage and conduct the ordinary business*
36 *affairs of the corporation effective only in an emergency as defined*
37 *in Section 7140, including, but not limited to, procedures for*
38 *calling a board meeting, quorum requirements for a board meeting,*
39 *and designation of additional or substitute directors.*

1 (2) *During an emergency, the board may not take any action*
2 *that requires the vote of the shareholders or otherwise is not in*
3 *the corporation's ordinary course of business, unless the required*
4 *vote of the shareholders was obtained prior to the emergency.*

5 (3) *All provisions of the regular bylaws consistent with the*
6 *emergency bylaws shall remain effective during the emergency,*
7 *and the emergency bylaws shall not be effective after the emergency*
8 *ends.*

9 (4) *Corporate action taken in good faith in accordance with the*
10 *emergency bylaws binds the corporation, and may not be used to*
11 *impose liability on a corporate director, officer, employee, or*
12 *agent.*

13 SEC. 7. *Section 9140 of the Corporations Code is amended to*
14 *read:*

15 9140. Subject to any limitations contained in the articles or
16 bylaws and to compliance with other provisions of this division
17 and any other applicable laws, a corporation, in carrying out its
18 activities, shall have all of the powers of a natural person,
19 including, without limitation, the power to:

20 (a) Adopt, use, and at will alter a corporate seal, but failure to
21 affix a seal does not affect the validity of any instrument.

22 (b) Adopt, amend, and repeal bylaws.

23 (c) Qualify to conduct its activities in any other state, territory,
24 dependency or foreign country.

25 (d) Issue, purchase, redeem, receive, take or otherwise acquire,
26 own, sell, lend, exchange, transfer or otherwise dispose of, pledge,
27 use and otherwise deal in and with its own bonds, debentures,
28 notes and debt securities.

29 (e) Issue memberships.

30 (f) Pay pensions, and establish and carry out pension, deferred
31 compensation, saving, thrift and other retirement, incentive and
32 benefit plans, trusts, and provisions for any or all of its directors,
33 officers, employees, and persons providing services to it or any of
34 its subsidiary or related or associated corporations, and to
35 indemnify and purchase and maintain insurance on behalf of any
36 fiduciary of such plans, trusts, or provisions.

37 (g) Levy dues, assessments, and fees.

38 (h) Make donations for the public welfare or for community
39 funds, hospital, charitable, educational, scientific, civic, religious
40 or similar purposes.

1 (i) Assume obligations, enter into contracts, including contracts
2 of guarantee or suretyship, incur liabilities, borrow or lend money
3 or otherwise use its credit, and secure any of its obligations,
4 contracts or liabilities by mortgage, pledge or other encumbrance
5 of all or any part of its property and income.

6 (j) Participate with others in any partnership, joint venture or
7 other association, transaction or arrangement of any kind whether
8 or not such participation involves sharing or delegation of control
9 with or to others.

10 (k) Act as trustee under any trust incidental to the principal
11 objects of the corporation, and receive, hold, administer, exchange,
12 and expend funds and property subject to such trust.

13 (l) Carry on a business at a profit and apply any profit that results
14 from the business activity to any activity in which it may lawfully
15 engage.

16 (m) Pay the reasonable value of services rendered in this state
17 to the corporation before January 1, 1975, and not previously paid,
18 by any person who performed such services on a full-time basis
19 under the direction of a religious organization in connection with
20 the religious tenets of the organization. Such person shall have
21 relied solely on the religious organization for his or her financial
22 support for a minimum of five years. A payment shall not be made
23 if such person or religious organization waives the payment or
24 receipt of compensation for such services in writing. Payment may
25 be made to such religious organization to reimburse it for
26 maintenance of any person who rendered such services and to
27 assist it in providing future support and maintenance; however,
28 payment shall not be made from any funds or assets acquired with
29 funds donated by or traceable to gifts made to the corporation by
30 any person, organization or governmental agency other than the
31 members, immediate families of members and affiliated religious
32 organizations of the religious organization under whose direction
33 the services were performed.

34 (n) (1) *In advance of or during an emergency, take any or all*
35 *of the following actions necessary to conduct the corporation's*
36 *ordinary business operations and affairs during an emergency,*
37 *unless emergency bylaws provide otherwise pursuant to subdivision*
38 *(g) of Section 9151:*

1 (A) *Modify lines of succession to accommodate the incapacity*
2 *of any director, officer, employee, or agent resulting from the*
3 *emergency.*

4 (B) *Relocate the principal office, designate alternative principal*
5 *offices or regional offices, or authorize the officers to do so.*

6 (C) *Give notice to a director or directors in any practicable*
7 *manner under the circumstances, including, but not limited to, by*
8 *publication and radio, when notice of a meeting of the board*
9 *cannot be given to that director or directors in the manner*
10 *prescribed by the bylaws or Section 9211.*

11 (D) *Deem that one or more officers of the corporation present*
12 *at a board meeting is a director, in order of rank and within the*
13 *same rank in order of seniority, as necessary to achieve a quorum*
14 *for that meeting.*

15 (2) *During an emergency, the board may not take any action*
16 *that requires the vote of the shareholders or is not in the*
17 *corporation's ordinary course of business, unless the required*
18 *vote of the shareholders was obtained prior to the emergency.*

19 (3) *Any actions taken in good faith during an emergency under*
20 *this subdivision binds the corporation and may not be used to*
21 *impose liability on a corporate director, officer, employee, or*
22 *agent.*

23 (4) *For purposes of this subdivision, "emergency" means any*
24 *of the following events or circumstances as a result of which a*
25 *quorum of the corporation's board of directors cannot be readily*
26 *convened for action:*

27 (A) *A natural catastrophe, including, but not limited to, a*
28 *hurricane, tornado, storm, high water, wind-driven water, tidal*
29 *wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,*
30 *snowstorm, or drought, or, regardless of cause, any fire, flood, or*
31 *explosion.*

32 (B) *An attack on this state or nation by an enemy of the United*
33 *States of America, or upon receipt by this state of a warning from*
34 *the federal government indicating that an enemy attack is probable*
35 *or imminent.*

36 (C) *An act of terrorism or other man-made disaster that results*
37 *in extraordinary levels of casualties or damage or disruption*
38 *severely affecting the infrastructure, environment, economy,*
39 *government functions, or population, including, but not limited to,*
40 *mass evacuations.*

1 (D) *A state of emergency proclaimed by the Governor.*

2 SEC. 8. *Section 9151 of the Corporations Code is amended to*
3 *read:*

4 9151. (a) The bylaws shall set forth (unless such provision is
5 contained in the articles, in which case it may only be changed by
6 an amendment of the articles) the number of directors of the
7 corporation, or the method of determining the number of directors
8 of the corporation, or that the number of directors shall be not less
9 than a stated minimum nor more than a stated maximum with the
10 exact number of directors to be fixed, within the limits specified,
11 by approval of the board or the members (Section 5034), in the
12 manner provided in the bylaws, subject to subdivision (e) of
13 Section 9151. The number or minimum number of directors may
14 be one or more.

15 (b) Except as otherwise provided in the articles or bylaws, once
16 members have been admitted, a bylaw specifying or changing a
17 fixed number of directors or the maximum or minimum number
18 or changing from a fixed to a variable board or vice versa may
19 only be adopted by approval of the members (Section 5034).

20 (c) The bylaws may contain any provision, not in conflict with
21 law or the articles, for the management of the activities and for
22 the conduct of the affairs of the corporation, including but not
23 limited to:

24 (1) Any provision referred to in subdivision (c) of Section 9132.

25 (2) The time, place and manner of calling, conducting and giving
26 notice of members', directors' and committee meetings, or of
27 conducting mail ballots.

28 (3) The qualifications, duties and compensation of directors;
29 the time of their election; and the requirements of a quorum for
30 directors' and committee meetings.

31 (4) The appointment of committees, composed of directors or
32 nondirectors or both, by the board or any officer and the authority
33 of any such committees.

34 (5) The appointment, duties, compensation and tenure of
35 officers.

36 (6) The mode of determination of members of record.

37 (7) The making of reports and financial statements to members.

38 (8) Setting, imposing and collecting dues, assessments, and
39 admissions and transfer fees.

1 (d) The bylaws may provide for the manner of admission,
2 withdrawal, suspension, and expulsion of members.

3 (e) The bylaws may require, for any or all corporate actions
4 (except as provided in Section 9222 and subdivision (b) of Section
5 9680), the vote of a larger proportion of, or all of, the members or
6 the members of any class, unit, or grouping of members, or the
7 vote of a larger proportion of, or all of, the directors than is
8 otherwise required by this part. Such a provision in the bylaws
9 requiring such greater vote shall not be altered, amended or
10 repealed except by such greater vote, unless otherwise provided
11 in the bylaws.

12 (f) The bylaws may contain a provision limiting the number of
13 members, in total or of any class, which the corporation is
14 authorized to admit.

15 (g) (1) *The bylaws may contain any provision, not in conflict*
16 *with the articles, to manage and conduct the ordinary business*
17 *affairs of the corporation effective only in an emergency as defined*
18 *in Section 9140, including, but not limited to, procedures for*
19 *calling a board meeting, quorum requirements for a board meeting,*
20 *and designation of additional or substitute directors.*

21 (2) *During an emergency, the board may not take any action*
22 *that requires the vote of the shareholders or otherwise is not in*
23 *the corporation's ordinary course of business, unless the required*
24 *vote of the shareholders was obtained prior to the emergency.*

25 (3) *All provisions of the regular bylaws consistent with the*
26 *emergency bylaws shall remain effective during the emergency,*
27 *and the emergency bylaws shall not be effective after the emergency*
28 *ends.*

29 (4) *Corporate action taken in good faith in accordance with the*
30 *emergency bylaws binds the corporation, and may not be used to*
31 *impose liability on a corporate director, officer, employee, or*
32 *agent.*